

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

68-0157 (9-06) - 3091078 - EI

DAN HAYNES
Claimant

APPEAL NO: 19A-UI-03698-JC-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

MENARD INC
Employer

OC: 02/03/19
Claimant: Respondent (4)

Iowa Code § 96.5(3)a – Failure to Accept Work
Iowa Code § 96.4(3) – Ability to and Availability for Work
Iowa Admin. Code r. 871-24.22(2) – Able & Available - Benefits Eligibility Conditions

STATEMENT OF THE CASE:

The employer filed an appeal from the April 24, 2019, (reference 05) unemployment insurance decision that allowed benefits. The parties were properly notified about the hearing. A telephone hearing was held on May 23, 2019. The claimant participated personally. The employer participated through Jacob Park, second assistant store manager. Employer Exhibits A-D were admitted into evidence. The administrative law judge took official notice of the administrative records including the fact-finding documents. Based on the evidence, the arguments presented, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

Did the claimant fail to accept a suitable offer of work and if so, was the failure to do so for a good cause reason?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant established a claim for unemployment insurance benefits with an effective date of February 3, 2019. The claimant last performed work at Tyler Technologies as a network support specialist. The claimant's average weekly wage is \$1,666.00.

During the claimant's seventh week of unemployment, the claimant applied for a full-time position with Menard Inc. on March 28, 2019. He applied to work in building materials and spoke to the store manager, Mike. The claimant stated he interpreted the conversation to be an offer of work which would begin on April 1, 2019. The terms included 40 hours per week at \$12.50 per hour. The claimant's weekly wage in the position would be \$500.00. The claimant contacted his Workforce Advisor, Larry Faber, to ask if he had to accept the position. Mr. Faber stated no, based upon the wages offered. The claimant stated he declined the offer.

Mr. Park attended the hearing on behalf of the employer and stated while records show the claimant applied for a position with the company, there is no record of an offer being extended to him.

Effective May 28, 2019, the claimant will begin full-time employment at Iowa State University as a systems support specialist.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes claimant did not refuse a suitable offer of work.

Iowa Code section 96.5(3)a provides:

An individual shall be disqualified for benefits, regardless of the source of the individual's wage credits:

3. Failure to accept work. If the department finds that an individual has failed, without good cause, either to apply for available, suitable work when directed by the department or to accept suitable work when offered that individual. The department shall, if possible, furnish the individual with the names of employers which are seeking employees. The individual shall apply to and obtain the signatures of the employers designated by the department on forms provided by the department. However, the employers may refuse to sign the forms. The individual's failure to obtain the signatures of designated employers, which have not refused to sign the forms, shall disqualify the individual for benefits until requalified. To requalify for benefits after disqualification under this subsection, the individual shall work in and be paid wages for insured work equal to ten times the individual's weekly benefit amount, provided the individual is otherwise eligible.

a. (1) In determining whether or not any work is suitable for an individual, the department shall consider the degree of risk involved to the individual's health, safety, and morals, the individual's physical fitness, prior training, length of unemployment, and prospects for securing local work in the individual's customary occupation, the distance of the available work from the individual's residence, and any other factor which the department finds bears a reasonable relation to the purposes of this paragraph. Work is suitable if the work meets all the other criteria of this paragraph and if the gross weekly wages for the work equal or exceed the following percentages of the individual's average weekly wage for insured work paid to the individual during that quarter of the individual's base period in which the individual's wages were highest:

(a) One hundred percent, if the work is offered during the first five weeks of unemployment.

(b) Seventy-five percent, if the work is offered during the sixth through the twelfth week of unemployment.

(c) Seventy percent, if the work is offered during the thirteenth through the eighteenth week of unemployment.

(d) Sixty-five percent, if the work is offered after the eighteenth week of unemployment.

(2) However, the provisions of this paragraph shall not require an individual to accept employment below the federal minimum wage.

In this case, the claimant was offered a position to work at Menard Inc. on April 1, 2019. In order to be a suitable offer, the claimant's projected weekly wages would have to be seventy-five percent of his average weekly wage. Seventy-percent of the claimant's \$1,666.00 average weekly wage is \$1,249.50. Based upon the terms of employment offered to the claimant, of forty hours per week at a rate of \$12.50, the claimant would only earn \$500.00 per week.

Therefore, based on the undisputed evidence, the administrative law judge concludes the offer was unsuitable, as it did not meet the minimum wage requirements set out above for an offer to be considered suitable. Benefits are allowed, provided the claimant is otherwise eligible.

Iowa Admin. Code r. 871-24.23(23) provides:

The following are reasons for a claimant being disqualified for being unavailable for work.

(23) The claimant's availability for other work is unduly limited because such claimant is working to such a degree that removes the claimant from the labor market.

Effective May 26, 2019, claimant is ineligible for unemployment insurance benefits because he will be performing work full-time and therefore, no longer unemployed.

DECISION:

The April 24, 2019, (reference 05) decision is modified in favor of the appellant. The claimant did not refuse a suitable offer of work. Benefits are allowed, provided the claimant is otherwise eligible. Effective May 26, 2019, claimant is ineligible for unemployment because he is performing work full-time.

Jennifer L. Beckman
Administrative Law Judge

Decision Dated and Mailed

jlb/scn